

BEFORE THE  
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**DONALD FELIPE HARRIS**  
17050 San Bruno Street, Apt. E11  
Fountain Valley, CA 92708

Occupational Therapy Assistant Certificate  
No. OTA 1772

Respondent.

Case No. OA2008-77


OAH No. 2009080986

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Occupational Therapy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 23, 2010.

It is so ORDERED March 24, 2010.

  
FOR THE CALIFORNIA BOARD OF  
OCCUPATIONAL THERAPY  
DEPARTMENT OF CONSUMER AFFAIRS

*MSA, OTR/L, FA07A*

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 RITA M. LANE  
Deputy Attorney General  
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*Attorneys for Complainant*

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**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

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15 **Occupational Therapy Assistant Certificate**  
**No. OTA 1772**

16 Respondent.

Case No. OA2008-77

OAH No. 2009080986

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

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18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Heather Martin (Complainant) is the Executive Officer of the California Board of  
23 Occupational Therapy. She brought this action solely in her official capacity and is represented  
24 in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Rita M.  
25 Lane, Deputy Attorney General.

26 2. Respondent Donald Felipe Harris (Respondent) is represented in this proceeding by  
27 attorney Fredrick M. Ray, Esq., whose address is Law Offices of Fredrick M. Ray, 770 The City  
28 Drive, Suite 8100, Orange, Ca 92868-6927, telephone (714) 748-8488.

3. On or about May 20, 2008, the California Board of Occupational Therapy issued Occupational Therapy Assistant Certificate No. OTA 1772 to Donald Felipe Harris (Respondent). The Occupational Therapy Assistant Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. OA2008-77 and will expire on May 31, 2011, unless renewed.

## JURISDICTION

4. Accusation No. OA2008-77 was filed before the California Board of Occupational Therapy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 12, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. OA2008-77 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. OA2008-77. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. OA2008-77.

9. Respondent agrees that his Occupational Therapy Assistant Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the California Board of Occupational Therapy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Occupational Therapy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. . In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Occupational Therapy Assistant Certificate No. OTA 1772 issued to Respondent Donald Felipe Harris is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws and regulations governing the practice of occupational therapy in California. Respondent shall submit, in writing, a full detailed account of any and all violations of the law to the Board within five (5) days of occurrence.

2. **Compliance with Probation and Quarterly Reporting.** Respondent shall fully comply with the terms and conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with probation. Respondent, within ten (10) days of completion of the quarter, shall submit quarterly written reports to the Board on a Quarterly Report of Compliance form obtained from the Board.

3. **Personal Appearances.** Upon reasonable notice by the Board, respondent shall report to and make personal appearances at times and locations as the Board may direct.

4. **Notification of Address and Telephone Number Change(s).**

Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of his new address and any change in work and/or home telephone numbers.

5. **Tolling for Out-of-State Practice, Residence or In-State Non-Practice.**

In the event respondent should leave California to reside or to practice outside the State for more than thirty (30) days, respondent shall notify the Board or its designee in writing within ten (10) days of the dates of departure and return. All provisions of probation other than the quarterly report requirements, examination requirements, and education requirements, shall be held in abeyance until respondent resumes practice in California. All provisions of probation shall recommence on the effective date of resumption of practice in California.

6. **Notification to Employer(s).** When currently employed or applying for employment in any capacity in any health care profession, Respondent shall notify his employer of the

1 probationary status of respondent's license. This notification to the current employer shall occur  
2 no later than the effective date of the Decision. Respondent shall notify any prospective health  
3 care employer of his probationary status with the Board prior to accepting such employment.  
4 This notification shall be made by providing the employer or prospective employer with a copy of  
5 the Board's Accusation and Stipulated Settlement and Disciplinary Decision and Order.

6 Respondent shall cause each health care employer to submit quarterly reports to the Board.  
7 The reports shall be on a form provided by the Board, shall include a performance evaluation and  
8 such other information as may be required by the Board.

9 Respondent shall notify the Board, in writing, within five (5) days of any change in  
10 employment status. Respondent shall notify the Board, in writing, within five (5) days if he is  
11 terminated from any occupational therapy or health care related employment with a full  
12 explanation of the circumstances surrounding the termination.

13 **7. Employment Requirements and Limitations.** During probation, respondent shall  
14 work in his licensed capacity in the State of California. This practice shall consist of no less than  
15 (6) continuous months and of no less than twenty (20) hours per week.

16 While on probation, respondent shall not work for a registry or in any private duty position,  
17 except as approved, in writing, by the Board. Respondent shall work only on a regularly  
18 assigned, identified, and pre-determined work site(s) and shall not work in a float capacity except  
19 as approved, in writing, by the Board.

20 **8. Supervision Requirements.** Respondent shall obtain prior approval from the Board,  
21 before commencing any employment, regarding the level of supervision provided to the  
22 respondent while employed as an occupational therapist or occupational therapy assistant.

23 Respondent shall not function as a supervisor during the period of probation except as  
24 approved, in writing, by the Board.

25 **9. Continuing Education Requirements.** Respondent shall complete continuing  
26 education in the areas of Ethics for six (6) contact hours and Stress Management for six (6)  
27 contact hours within six (6) months of the effective date of the Decision. Within thirty (30) days  
28 of the effective date of the Decision, Respondent shall submit a written plan to comply with this

1 requirement. The proposed plan shall include the titles of the courses, course description or  
2 syllabus, the provider, and contract hours. A Board representative shall approve such plan prior  
3 to enrollment of any course of study.

4 The continuing education work shall be in addition to the professional development  
5 activities required for license renewal.

6 Failure to satisfactorily complete the required continuing education as scheduled shall  
7 constitute a violation of probation. Respondent is responsible for all costs of such continuing  
8 education. Upon successful completion, Respondent shall send the original certificate he receives  
9 for the coursework to the Board within thirty (30) days of completion. Respondent shall send the  
10 original certificate to the Board by certified mail, return receipt requested.

11 10. **Maintenance of Valid License.** Respondent shall, at all times while on probation,  
12 maintain an active current license with the Board, including any period during which his license  
13 is suspended or probation is tolled.

14 11. **Cost Recovery Requirements.** Respondent shall reimburse the Board for its costs in  
15 the investigation and enforcement of this matter pursuant to Business and Professions Code  
16 section 125.3 in the amount of \$1,522.00. Failure to make payments in accordance with any  
17 formal agreement entered into with the Board or pursuant to any Decision by the Board shall be  
18 considered a violation of probation.

19 The Board may conditionally renew or reinstate, for a maximum of one (1) year, the license  
20 of any respondent who demonstrates financial hardship. Respondent shall enter into a formal  
21 agreement with the Board to reimburse the unpaid costs within that one (1) year period.

22 Except as provided above, the Board shall not renew or reinstate the license of any  
23 respondent who has failed to pay all the costs as directed in a Decision.

24 12. **Violation of Probation.** If respondent violates probation in any respect, the Board,  
25 after giving respondent notice and opportunity to be heard, may revoke probation and carry out  
26 the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed  
27 against respondent during probation, the Board shall have continuing jurisdiction until the matter  
28 is final, and the period of probation shall be extended until the matter is final.

1           13.   **Completion of Probation.** Upon successful completion of probation, respondent's  
2 license will be fully restored.

3           14.   **Psychological Evaluation.** Within sixty (60) days of the effective date of the  
4 Decision, Respondent shall submit to the Board the name of one (1) or more proposed  
5 psychiatrist(s)/psychologist(s) with substance abuse expertise, for prior approval to complete a  
6 psychiatric/psychological evaluation. The evaluation shall be performed by a psychiatrist  
7 licensed in California and certified in Psychiatry, or by a clinical psychologist licensed in  
8 California. This evaluation shall be for the purpose of determining respondent's current mental,  
9 psychological and emotional fitness to perform all professional duties with safety to self and the  
10 public. Respondent shall provide the evaluator with a copy of the Board's Disciplinary Order  
11 prior to the evaluation. Cost of such evaluation shall be paid by respondent.

12           Respondent shall cause the evaluator to submit to the Board a written psychological report  
13 concerning respondent's status and progress as well as such other information as may be  
14 requested by the Board. This report shall be submitted within ninety (90) days from the effective  
15 date of the Decision.

16           If the evaluator finds the respondent is not psychologically fit to practice safely or can only  
17 practice with restrictions, the evaluator shall notify the Board, in writing, within five (5) working  
18 days. The Board shall notify the respondent in writing of the evaluator's determination of  
19 unfitness to practice and shall order the respondent to cease or restrict licensed activities as a  
20 condition of probation. Respondent shall comply with this condition until the Board is satisfied  
21 of respondent's fitness to practice safely and has so notified respondent. Respondent shall  
22 document compliance in the manner required by the Board.

23           If the evaluator finds the psychotherapy is required, the respondent shall participate in a  
24 therapeutic program at the Board's discretion. Cost of such therapy shall be paid by respondent.

25           15.   **Chemical Dependency Support/Recovery Groups.** Within five (5) days of the  
26 effective date of the Decision, respondent shall begin weekly attendance at a chemical  
27 dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous). Verified  
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1 documentation of attendance shall be submitted by respondent with each quarterly report.

2 Respondent shall continue attendance in such a group for the duration of probation.

3 16. **Abstain From Controlled Substances.** Respondent shall completely abstain from  
4 the personal use or possession of controlled substances, as defined in the California Uniform  
5 Controlled Substances Act, and dangerous drugs as defined in section 4021 and 4022 of the  
6 Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a  
7 bona fide illness.

8 17. **Abstain From Use of Alcohol.** Respondent shall completely abstain from the use of  
9 alcoholic beverages during the period of probation.

10 18. **Submit Biological Fluid Samples.** Respondent shall immediately submit to  
11 biological fluid testing, at respondent's cost, upon request by the Board or its designee. There  
12 will be no confidentiality in the test results; positive test results will be immediately reported to  
13 the Board and the respondent's current employer.

14 19. Respondent waives any rights he may have to petition for early termination of  
15 probation or petition for modification of the terms of probation contained herein.

16 ACCEPTANCE

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
18 discussed it with my attorney, Fredrick M. Ray. I understand the stipulation and the effect it will  
19 have on my Occupational Therapy Assistant Certificate. I enter into this Stipulated Settlement  
20 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
21 Decision and Order of the California Board of Occupational Therapy.

22  
23 DATED: 2/1/10


Donald Felipe Harris  
DONALD FELIPE HARRIS  
Respondent

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1 I have read and fully discussed with Respondent Donald Felipe Harris the terms and  
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
3 I approve its form and content.

4 DATED: 2/1/10

  
FREDRICK M. RAY, Esq.  
Attorney for Respondent

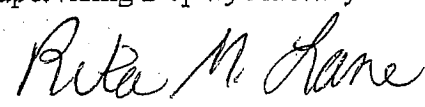
8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
10 submitted for consideration by the California Board of Occupational Therapy of the Department  
11 of Consumer Affairs.

12 Dated: 2-5-10

13 Respectfully Submitted,

14 EDMUND G. BROWN JR.  
15 Attorney General of California  
16 LINDA K. SCHNEIDER  
17 Supervising Deputy Attorney General

  
18 RITA M. LANE  
19 Deputy Attorney General  
20 Attorneys for Complainant

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